IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11897 of 2001

Between:

D.Madhavi d/o D.Subba Rao,

Age 27 years, R/o Quarter No.B-17/F4,

Panjagutta Colony, Hyderabad-500 082.

..... PETITIONER

AND

1. The A.P. Transmission Corporation Limited,

Represented by its Chairman-cum-Managing Director,

Vidyuth Soudha, Somajiguda, Hyderabad.

2. The Chief Engineer,

Transmission Lines Construction,
A.P. Transco, Erragadda, Hyderabad.

3. The Superintending Engineer,

Transmission Lines Construction,

Mint compound, A.P. Transco, Hyderabad.

4. The General Manager (Personel)

A.P. Transco, Vidyuthsoudha,

Somajiguda, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of Mandamus or any other writ or order or direction declaring the action of

the respondents in not calling her for interview under B.P.Ms.No.36, dt. 18-05-1997, in view of the notification, dt. 20-04-2001 as illegal arbitrary and in violation of principles of natural justice apart from violative of fundamental rights guaranteed under Article 14, 16 and 21 of the Constitution of India with a consequential direction to the respondents to forthwith consider the petitioner under B.P.Ms.No.36, Dt.18-05-1997 and also the present notification dt. 20-04-2001 for the post of Lower Division Clerk or typist, award costs.

Counsel for the Petitioner:MR.CH.SUDHAKAR BABU

Counsel for the Respondents: MR.SAMINENI KISHORE

The Court made the following:

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 11897 of 2001

O R D E R:

The writ petition is filed seeking to declare the action of the respondents in not calling the petitioner for interview under B.P.Ms.No. 36 dated 18.5.1997 in pursuance of the notification dated 20.4.2001 as illegal and arbitrary.

The brief facts that are necessary for the disposal of this case are as follows:

The petitioner worked as a contract labour under the 3rd respondent Circle in the year 1994 and continued till 1998. The 1st respondent – Corporation issued B.P.Ms.No. 36 dated 18.5.1997 for filling up of the vacancies in the initial cadre to the extent of 50% of

the vacancies as on 18.5.1997. In pursuance of the directions issued by this court in W.P. 5064 of 1999, a notification was issued calling for filling up of the posts. Thereafter the 1st respondent – Corporation issued a paper publication dated 20.4.2001 in Deccan Chronicle for filling up of the posts to the cadre of Junior Lineman, Lower Division Clerks, Typists, Sub-Engineers under 50% quota. According to the petitioner, she was fully qualified for the eligibility conditions imposed in B.P.Ms.No.36 dated 18.5.1997. In pursuance of the said notification, she submitted an application in the prescribed proforma to the 4th respondent on 26.4.2001 and to the 3rd respondent on 8.5.2001 and also on 4.6.2001, but she was not called for interview. Hence, she filed the present writ petition.

The respondents filed counter affidavit admitting that the A.P. TRANSCO has accorded orders duly permitting all the Superintending Engineers to fill up 50% of the vacant posts in the initial recruitment cadres of JLM/LDCs/Typists/R.Cs/Sub-Engineers available as on 18.5.1997. It is further stated that the paper notification published on 20.4.2001 in Deccan Chronicle is not related to TLC Circle, AP TRANSCO. It is further stated that though the petitioner is entitled for absorption based on her requisite qualifications, she has not approached the Personnel Wing in TLC Circle, AP TRANSCO, Hyderabad in pursuance of the paper notification. The application of the petitioner dated 26.4.2001 is based on the paper notification issued by the 4th respondent but not by the Superintending Engineer, TLC Circle, AP TRANSCO. The applications of the petitioner dated 8.5.2001 and 4.6.2001 are not received in the office and hence the respondents pray to dismiss the writ petition.

A learned single Judge of this court by order dated 25.2.2002 held:

> "In view of the clear admission made by the respondents-Corporation that the petitioner is entitled to be absorbed basing on her requisite qualification, there

shall be a direction to the respondents to consider the case of the petitioner for calling her to interview, within four weeks from the date of receipt of a copy of this order".

Against the said order, the respondent-Corporation preferred a writ appeal nearly after one year in W.A. 1100 of 2003 and a Division Bench of this court by its order dated 18.7.2003 observed as follows:

> "We have heard the learned counsel on both sides. As a matter of fact, the appellants' sole grievance before the learned single Judge, as set out in the counter affidavit, was that the petitioner had not filed the application within the period of time and, therefore, it was not liable to be considered. This aspect was not at all dealt with by the learned single Judge. Consequently, we allow the appeal and set aside the impugned order. Writ petition be placed before the learned single judge for deciding the same in accordance with law".

That is how the writ petition has come up for final hearing before this court.

Learned counsel for the petitioner contended that the 3rd respondent published notification on 21.2.2001 calling for the applications to fill up certain posts to an extent of 50% and the last date for submission of applications was 15.3.2001. He further contended that in pursuance of the said notification the petitioner could not apply but thereafter the 4th respondent issued another notification which was published in the news papers on 20.4.2001 for filling up of the self-same posts, giving the due date for receiving the applications as 30.4.2001 and accordingly the petitioner submitted an application on 26.4.2001 and therefore she is entitled to be considered for the posts if she is otherwise qualified. It is also brought

to the notice of this court that in pursuance of the earlier directions of this court the petitioner was interviewed but the results have not been published so far.

On the other hand, learned counsel for the respondents contended that in pursuance of the notification issued by the 3rd respondent the petitioner did not submit her application and therefore the question of considering her case does not arise even though she was participated in the interview.

It is not disputed before this court that the petitioner is having the requisite qualifications for the post of Lower Division Clerk/Typist. It is also not disputed before this court that for the first time the petitioner made an application on 26.4.2001 in pursuance notification issued by the 4th respondent, which was published in the news papers on 20.4.2001. If the two notifications relate to the self-same posts i.e. 50% of the Ex-Casual Employees of the respondent-Corporation, then there will not be any difficulty for this court in holding that the petitioner has made an application within time, because the notification of the 4th respondent would clearly to go show that the duly filled in applications should reach the General Manager (Per)/APTRANSCO/Vidyut Soudha/ Hyderabad on or before 30.4.2001. Admittedly the petitioner has submitted the application on 26.4.2001. But, however, the petitioner has not submitted the application in pursuance of the notification issued by the Superintending Engineer in the paper publication dated 21.2.2001. A perusal of the notifications dated 21.2.2001 and 20.4.2001 would reveal that the applications were called by the respondents 3 and 4 respectively for filling up of posts against left over vacancies in the cadre of JLM/Typist/LDCs under 50% existing as on 18.5.1997. Therefore, these two notifications would clearly indicate that the respondents 3 and 4 intend to fill up the self-same posts. If these two notifications relate to different cadres of posts, then the petitioner is not entitled for participation in the interview. Since these two notifications relate to the self-same posts, the petitioner can

as well apply before the last date as mentioned in the notification of the 4th respondent dated 20.4.2001. Therefore, the application of the petitioner is well within the time as per the 2nd notification issued by the 4th respondent. Hence she is entitled to be called for the interview. No doubt, the petitioner also made applications dated 8.5.2001 and 4.6.2001 but her case is not solely based on those two applications. If the case of the petitioner is solely based on those two applications, she is not eligible to participate in the interview since those applications were submitted after the due date. But, as the petitioner has submitted application on 26.4.2001 i.e. within the time, she is entitled to be called for interview. Even the counter filed by the respondents would go to show that the application of the petitioner dated 26.4.2001 is in pursuance of the notification issued by the 4th respondent but not by the 3rd respondent. Therefore, the only objection raised by the learned counsel for the respondents is that in pursuance of the notification issued by the 3rd respondent, the petitioner has not applied. The said contention cannot be accepted in view of the fact that for the self-same posts the 4th respondent has issued another notification.

For the aforesaid reasons, the writ petition is allowed. Since in pursuance of the earlier directions of this court the petitioner has participated in the interview that took place on 15.3.2002, depending upon the merit appropriate decision has to be taken by the respondents 3 and 4 within four weeks from the date of receipt of a copy of this order in accordance with the Rules.

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K.C. Bhanu, J.

Date: 06—06—2005.

MVB.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Monday, the sixth day of June, Two thousand and Five.

REGISTRAR

To

1. The Chairman-cum-Managing Director,

A.P. Transmission Corporation Limited,

Vidyuth Soudha, Somajiguda, Hyderabad.

2. The Chief Engineer,

Transmission Lines Construction,
A.P. Transco, Erragadda, Hyderabad.

3. The Superintending Engineer,

Transmission Lines Construction,

Mintcompound, A.P. Transco, Hyderabad.

4. The General Manager (Personel)

A.P. Transco, Vidyuthsoudha,

Somajiguda, Hyderabad.

5. 2 C.D. copies.